

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
January 26, 2016

A public hearing of the Zoning Board of Adjustment was held on Tuesday, January 26, 2016 at 6:30 PM in Room 208, City Hall.

Gerry Reppucci, Chair
Jack Currier, Vice Chair
J.P. Boucher, Clerk
Rob Shaw
Mariellen MacKay

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Reppucci explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Reppucci explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Reppucci also explained procedures involving the timing light.

- 1. Pickering Court Apartments, LLC (Owner) Barbara Blake (Applicant) 26-32 Amory Street (Sheet 38 Lot 46) requesting special exception to maintain expansion of non-conforming use, where six dwelling units are approved, and seven are existing. [Previously approved by ZBA on 5-24-05] GI Zone, Ward 7.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Rob Shaw
Mariellen MacKay

Dan Botwinik, Owner, Pickering Court Apartments, Nashua, NH. He said that he purchased two properties earlier in 2015, this one and 14-20 Amory Street. He said that prior to purchasing the properties, he said that they did their due diligence, and were told that there are seven units in the property, and most of the concerns from the Building, Fire and Board of Health Departments were with the other property.

He said that the number count came into play when they were doing some refinance work with their lenders, that it wasn't officially turned into a seven unit building. He said that it's

been seven units for quite some time, there are seven electrical meters in the building, seven occupants, separate egress for all units.

Mr. Botwinik said that in 2005, the previous owner did get approval for the number of units from the Zoning Board, but the follow-up was not done afterwards to have it enacted.

Mr. Reppucci asked if it was bought as a seven unit.

Mr. Botwinik said it was, it was purchased at an auction.

Mr. Currier asked for follow-up on the fact that the previous owner did not follow through.

Mr. Falk stated that the previous owner did apply for a special exception for that seventh unit. He said that at that time, applicants had to obtain a building permit within 12 months of approval from a Zoning Board decision, if not, the request was considered null and void. In this instance, a building permit was not applied for.

Mr. Currier asked how many parking spaces are available for the site.

Mr. Botwinik said it's a little confusing, there are easements that go back and forth with some of the adjacent properties. He said that there is a triangular property to the right of the property, where three cars park, and there is a large parking area in the back, which has room for about ten cars, and there is another area where five or six cars can park. He said that there is plenty of parking for this site.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mrs. MacKay to approve the special exception application as advertised on behalf of the owner.

Mrs. MacKay said that the use is listed in the table of uses, Section 190-119 (a)(4).

Mrs. MacKay said that the use will not create undue traffic congestion, or unduly impair pedestrian safety; it may actually support better traffic flow.

Mrs. MacKay stated that it will not overload public water, drainage, or sewer or other municipal systems; it is all under current use. She said that there are no special regulations that apply.

Mrs. MacKay said that the request will not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals or welfare of residents; it is an existing apartment complex.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

2. 75 Deerwood Drive, LLC (Owner) 75 Deerwood Drive (Sheet H Lot 134) requesting special exception to convert a single-family home approved by the ZBA on 5-13-14 into a rental office - back into a single-family residential home. PI Zone, Ward 2.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Rob Shaw
Mariellen MacKay

Peter Dolloff, Sequel Management, Nashua, NH. Mr. Dolloff said at the May 13, 2014 ZBA meeting, a use variance was granted to allow 13 residential townhomes and one maintenance garage and one rental management office. He said that they are requesting a special exception to convert the management office back into a residential unit, and the maintenance garage will be reduced in size to a two-car garage, thus ending up with fourteen residential units. He said it wouldn't be a mixed use lot anymore, it's all residential units. He said that there won't be any physical changes other than the size of the maintenance

garage being reduced in size to be about 24'x24' in size, the size of a residential garage.

Mr. Dolloff said that the reason why they're asking for this is that they were able to purchase the property at 7 Deerwood Drive, and will be submitting plans soon for the new office at that location, it's going to be two doors down from this property.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the special exception application as advertised on behalf of the owner.

Mr. Currier said that the use is listed in the table of uses, Section 190-119 (a)(4).

Mr. Currier said that the use will not create undue traffic congestion, or unduly impair pedestrian safety; it may be less intensive with the rental and maintenance garage gone and moved closer to Amherst Street.

Mr. Currier stated that it will not overload public water, drainage, or sewer or other municipal systems. He said that there are no special regulations that apply.

Mr. Currier said that the request will not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals or welfare of residents, he said that the Board finds that it will be more in character with the neighborhood, as the use on this property will be all residential and the office and maintenance portion moved closer to Amherst Street.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

3. David & Colleen Guild (Owners) 102 Bowers Street (Sheet 27 Lot 91) requesting the following variances: 1) to encroach 3'-9" into the 6 foot left side yard setback; and, 2) to encroach 4'-6" into the 6 foot rear yard setback - both requests to maintain an existing 10'x12' shed. RB Zone, Ward 7.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Rob Shaw
Mariellen MacKay

David Guild, 102 Bowers Street, Nashua, NH. Mr. Guild said that they purchased a kit-style shed placed at the end of the driveway. He said that he has a letter from one of the neighbors, who is fine with the shed. He said if it were 6 feet away from the neighbor's yard, it would actually be going into an existing shed that is already there on the other side. He said that the yard is relatively small; it would appear as if it's in the middle of the yard if it's moved away from the fence.

Mr. Guild said that on the back side, about 8 months out of the year, it's covered by foliage, and it can't even be seen, and it really shouldn't have any adverse effects on anyone, it's almost not even visible except from the street in front.

Mr. Reppucci said that the Board has a letter from Denis Caron, of 101 Bowers Street, and he read it into the record, and a copy was given to Mr. Guild.

Mr. Guild said that the other shed on the property is going to be taken down this summer.

Mr. Reppucci asked if he felt comfortable with a possible stipulation that if this request is supported, that the shed in the back will be removed.

Mr. Guild said that would be fine.

SPEAKING IN FAVOR:

Mr. Reppucci read the letter of support from Brian Trombley, 100 Bowers Street, Nashua, NH.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mr. Reppucci read the letter submitted by Denis Caron, 101 Bowers Street, Nashua NH.

Mr. Currier said that perhaps it could be stipulated that by the end of August, the shed in the middle back portion of the yard be removed.

MOTION by Mrs. MacKay to approve the variance application as advertised on behalf of the owner, with both requests considered together. Mrs. MacKay said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, there is a shed that exists to be torn down by the end of the summer, to accommodate the new shed, the shed to be torn down is the one in the middle back of the back yard. She said that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

Mrs. MacKay said that it's within the spirit and intent of the ordinance, it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served that they'll have a new shed to park his motorcycle trailer.

Mrs. MacKay said that for a special stipulation, that the existing shed in the middle of the back yard will be taken down by September 1, 2016, in order to accommodate the new shed and a place for the applicant to park his trailer for his motorcycle.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board did not see any cases that have regional impact.

MINUTES:

None.

Mr. Reppucci said that he received a letter from Mr. Teeboom relative to a variance case at 149 Hills Ferry Road that was heard in August.

Mr. Falk said that he'd email a copy of the letter to all the Board members.

OFFICERS:

Mr. Reppucci said that the By-Laws state that the slate of Officers needs to be taken in the first meeting in January. He suggested that the Officers just remain as status quo until there is a fifth member available.

ADJOURNMENT:

Mr. Reppucci called the meeting closed at 7:18 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing